

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ERIC G. VAUGHAN, JR.,

Plaintiff,

NOT FOR PUBLICATION

-against-

ORDER

USPS PROCESSING & DISTRIBUTION
CENTER,

16-CV-3416 (KAM) (LB)

Defendant.

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MATSUMOTO, United States District Judge:

On June 21, 2016, plaintiff Eric G. Vaughan, proceeding *pro se*, filed this action against the United States Postal Service Processing & Distribution Center ("USPS") alleging employment discrimination pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII") and the Americans with Disabilities Act ("ADA"). (ECF No. 1, Complaint.) For the reasons set forth below, the court denies plaintiff's request to proceed *in forma pauperis*. In order to proceed with this action, plaintiff must pay the statutory filing fee to the Clerk of Court within thirty (30) days of this Order.

Pursuant to 28 U.S.C. § 1914, the filing fee to commence a civil action is \$350. Effective May 1, 2013, an additional \$50 fee is required for a total filing fee of \$400. Under 28 U.S.C. § 1915, the court may waive the filing fee upon finding a plaintiff indigent.

The purpose of the *in forma pauperis* ("IFP") statute is to ensure that indigent persons have equal access to the judicial system. See *Davis v. N.Y.C. Dep't of Educ.*, No. 10-cv-3812, 2010 WL 3419671, at *1 (E.D.N.Y. Aug. 27, 2010) (citing *Gregory v. N.Y.C. Health & Hosp. Corp.*, No. 07-cv-1531, 2007 WL 1199010, at *1 (E.D.N.Y. Apr. 17, 2007)). Section 1915 of Title 28 of the United States Code authorizes a court to dismiss a case brought by a plaintiff requesting to proceed IFP if the "allegation of poverty is untrue." 28 U.S.C. § 1915(e)(2)(A). Whether a plaintiff qualifies for IFP status is within the discretion of the district court. See *Cabey v. Atria Senior Living*, No. 13 CV 3612, 2014 WL 794279, at *1 (E.D.N.Y. Feb. 26, 2014); *Pinede v. N.Y.C. Dep't of Environmental Protection*, No. 12 CV 6344, 2013 WL 1410380, at *2 (E.D.N.Y. Apr. 8, 2013).

Here, plaintiff's application does not demonstrate that he is indigent and cannot pay the filing fee. (ECF No. 2, Motion for Leave to Proceed *in forma pauperis*.) In his IFP application, plaintiff states that he is currently employed at the St. Albans Veteran Affairs Hospital in Queens, New York, where he earns \$17.00 per hour. (*Id.*) Plaintiff further states that his bi-weekly take home pay is \$951.00 and that he has a checking or savings account with a balance of approximately \$4,800. (See Dkt. 2, Pl. IFP Application at 1-2.) For expenses, plaintiff represents that he pays \$700 per month for

rent, \$300 per month for food, and approximately \$726 per month to lease a 2015-model automobile. Plaintiff's sworn IFP application establishes that he has sufficient resources to pay the \$400 filing fee to commence this action, and his request to proceed IFP is therefore denied.

Conclusion

In order to proceed with this action in federal court, plaintiff must pay the filing fee of \$400 to the Clerk of Court, U.S. District Court for the Eastern District of New York, within thirty (30) days from the date of this Order. If the filing fee is paid, the Clerk of Court shall prepare a summons and plaintiff shall effect service of process pursuant to Rule 4 of the Federal Rules of Civil Procedure.

If plaintiff fails to comply with this Order by paying the \$400 filing fee, the Complaint shall be dismissed and judgment shall enter. No summons shall issue at this time and all further proceedings shall be stayed for thirty (30) days. The court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See *Coppedge v. United States*, 269 U.S. 438, 444-45 (1962). The Clerk of Court is directed to serve a copy of this Order on the plaintiff and note service on the docket.

SO ORDERED.

Dated: July 6, 2016
Brooklyn, New York

/s/
Kiyo A. Matsumoto
United States District Judge